

BUREAU OF HEALTH, PUBLIC HEALTH LABORATORY

Chapter 269: RULES GOVERNING SELF-CONTAINED BREATH ALCOHOL TESTING EQUIPMENT

SUMMARY: All self-contained breath alcohol testing equipment must be approved by the U.S. Department of Transportation as stated in the Federal Register and the State of Maine, Department of Human Services. Each instrument must be tested and approved by the Public Health Laboratory and retested and re-approved semi-annually. Certain procedures are specified for calibration checks and use of self-contained breath alcohol testing equipment.

1. EQUIPMENT

- A. Only those instruments approved by the U.S. Department of Transportation for the purpose of breath testing will be considered. Evidence of this approval must be submitted by the manufacturer. An approved simulator must be provided for use with each instrument.
- B. The accuracy and sensitivity of the equipment should be such as to obtain results within $\pm 0.01\%$ w/v of the known value in the analysis of appropriate reference materials of known ethyl alcohol concentrations.
- C. Before approval each instrument must be tested by a chemist of the Public Health Laboratory. Approval will be given provided the machine gives results accurate within the limits of the performance requirements of the Department mentioned in Paragraph B, and will be indicated by affixing to the instrument a stamp which will be valid for no more than seven months.
- D. Each instrument will be retested by a chemist of the Public Health Laboratory at least once semi-annually. A new stamp of approval will be affixed to the instrument with the test date placed thereon.
- E. Failure of an instrument to provide results accurate within the limits of the performance requirements of the Department (1.B), when detected, will be investigated by a trained operator or a chemist of the Public Health Laboratory to determine the cause of that failure. If the results of that investigation establish that the instrument itself is out of calibration, or non-functional, that will be cause for immediate withdrawal of approval and removal of the stamp of approval previously affixed.

PROCEDURES

1. A calibration check must be run for each subject tested.
2. For each person tested, a complete blood-alcohol test must consist of 2 separate breath samples which result in determinations of blood alcohol concentration which agree within $\pm 0.02\%$ w/v.
3. If the first 2 breath sample results on the subject do not agree within $\pm 0.02\%$ w/v, subsequent samples must be taken until 2 tests fall within the prescribed limits. If after 4 separate breath sample results are taken, no 2 breath sample results agree within the prescribed limits, the testing sequence shall be void and either a retest or an alternative breath procedure shall be required.
4. The two lowest results which agree within $\pm 0.02\%$ w/v will be averaged, reporting only the first two decimal places of the average result as the final blood alcohol concentration.

5. ~~Weekly calibration checks will be done on each instrument using a simulator with alcohol solution provided to each agency by the Department of Human Services. Each weekly check will consist of 5 consecutive tests with the simulator to be within a range of $\pm 0.01\%$ w/v blood alcohol concentration from the known value of the alcohol solution. The Health and Environmental Testing Laboratory will provide any alcohol solution required by each agency for simulator tests.~~

STATUTORY AUTHORITY: 29-A M.R.S.A. Sec. 2524(6); and 22 M.R.S.A. 42(1)

EFFECTIVE DATE: NOVEMBER 15, 1978

AMENDED: August 1, 1982
 October 17, 1988
 April 5, 2004

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

MINOR